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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,994	03/30/2006	Sumi Kaneda	1009682-000159	2059
21839 7590 01/07/2008 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER LEWIS, PATRICK T	
			ART UNIT 1623	PAPER NUMBER
			NOTIFICATION DATE 01/07/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/573,994

Applicant(s)

KANEDA ET AL.

Examiner

Patrick T. Lewis

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 03302006; 07112006; 08302006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oono et al. US 4,745,103 (Oono) and Hanada et al. US 5,656,264 (Hanada) in combination.

The claim is drawn to a hair growth promoter which is an ethanol or aqueous ethanol preparation comprising (A) at least one compound selected from fatty acids having a chain length of an odd number of carbon atoms, (B) at least one selected from 6-benzylaminopurine and/or derivatives of Formula (I), (C) at least one polyglycerin fatty acid ester, and (D) at least one sorbitan fatty acid ester.

Oono teaches compositions useful as a hair cosmetic containing (a) a solvent including ethanol, (b) a hair-growing component which is at least one compound selected from the group consisting of straight chain, higher aliphatic carboxylic acids having an odd number of carbon atoms, and (c) a nonionic surfactant having an HLB value of not greater than 10 (column 1, lines 45-61). Illustrative suitable nonionic surfactants include fatty acid esters of sorbitan and fatty acid esters of polyglycerin ethers (column 5, lines 12-45). The hair cosmetic composition may contain various other auxiliary ingredients such as polyol, fatty oils, fats and surfactants and various conventional hair-growing ingredients.

Oono differs from the instantly claimed composition in that Oono does not teach incorporation of at least one selected from 6-benzylaminopurine and/or derivatives of Formula (I); however, the use of such compounds for promoting hair growth was known in the art at the time of the invention.

Hanada teaches compositions for promoting hair growth containing 6-benzylaminopurine and/or derivatives of Formula (1) (column 2, lines 15-67; column 5,

lines 6-11). In the general formula (1), examples of the substituent represented by R¹ include an alkyl group or alkenyl group containing 1 to 22 carbon atoms and examples of the substituent represented by R² include a hydrogen atom, a pentose residue and a hexose residue. The effective ingredients may be used alone or may be used in combination with other known chemicals commonly used as effective ingredients for preparation for promoting hair growth (column 13, lines 15-38).

Use of materials in combination, each of which is known to function for intended purpose, is generally held to be prima facie obvious as the idea of combining them flows logically from their having been individually taught in the prior art. In the instant case, Oono teaches a hair growth promoting composition containing components A, C and D; and Hanada teaches compositions for promoting hair growth containing 6-benzylaminopurine and/or derivatives of Formula (1). Thus, claims that require no more than the mixing two known hair growth promoting compositions together in order to achieve hair growth in a patient set forth prima facie obvious subject matter.

Conclusion

5. Claim 1 is pending. The claim is rejected.


Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick T. Lewis whose telephone number is 571-272-0655. The examiner can normally be reached on Monday - Friday 10 am to 3 pm (Maxi Flex).

Art Unit: 1623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Dr. Patrick T. Lewis
Primary Examiner
Art Unit 1623

ptl